

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ARTIS ELLIS,

§

Plaintiff,

§

VS.

§

**EDUCATIONAL COMMISSION OF
FOREIGN MEDICAL GRADUATES,**

§

Defendant.

§

CIVIL ACTION NO.

4:14-cv-02126

**PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-REPLY TO DEFENDANT
EDUCATIONAL COMMISSION OF FOREIGN MEDICAL GRADUATE'S REPLY IN
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Plaintiff Artis Ellis (“Plaintiff”), to file this Motion for Leave to file Plaintiff’s Sur-Reply to Defendant Educational Commission of Foreign Medical Graduates (“Defendant”) Motion for Summary Judgment, requesting the Court to grant Plaintiff’s Motion, as Plaintiff will show as follows:

I.

1. On July 24, 2014, Plaintiff filed this lawsuit against Educational Commission of Foreign Medical Graduates (“ECFMG”) alleging disability discrimination and retaliation in violation of Americans with Disabilities Act (“ADA”), Family Medical Leave Act (“FMLA”), and Chapter 21 of the Texas Labor Code (“TCHRA”) (Doc. 1).

2. On October 7, 2016, Defendant filed a Motion for Complete Summary Judgment (Doc. 32). On October 11, 2016, Defendant also filed an Amended Motion for Complete Summary Judgment (Doc. 34). On October 28, 2016, Plaintiff filed an Opposition to

Defendant's Motion for Summary Judgment. (Doc. 35). On November 15, 2016, Defendant filed a Reply in Support of its Motion for Summary Judgment (Doc. 36).

3. The Local Rules do not speak to whether a Motion for Leave is necessary to file a Sur-reply. However, out of an abundance of caution, Plaintiff files this Motion for Leave. *See Quantum Catalitics, LLC v. Vantage Point Venture Partners*, No. CIV.A. H-07-2619, 2008 WL 5245298, at *1 (S.D. Tex. Dec. 15, 2008) (the court notes that the Local Rules for the Southern District of Texas do not explicitly allow for the filing of sur-replies, although they also do not explicitly preclude it.)

4. In its Reply, Defendant presented new reasons and arguments in support of its Motion for Summary Judgment to which Plaintiff would like to properly respond.

5. Importantly, Defendant would not be prejudiced by the granting of this Motion. This Motion is not filed in bad faith, and will not result in any undue delay. Therefore, based on the foregoing, good cause exists to grant this Motion.

6. In an abundance of caution, Plaintiff is seeking leave from this Court to file a Sur-Reply.

8. Plaintiff respectfully requests that this Court grant Plaintiff's Motion for Leave to file a Sur-Reply to Defendant's Reply in Support of Complete Motion for Summary Judgment and files its sur-reply concurrently with this Motion for Leave, attached hereto as Exhibit A.

Respectfully Submitted,



A handwritten signature in black ink, appearing to read "Alfonso Kennard Jr.", is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November 2016, a true and correct copy of the above document was e-filed with the court and served on the respective attorneys of record for Defendant as reflected below by using the Court's CM/ECF system.

A handwritten signature in blue ink, appearing to read "Alfonso Kennard Jr.", is positioned above a horizontal line.

Alfonso Kennard, Jr.